

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

CHAPTER 394

## **SENATE BILL 1557**

AN ACT

AMENDING SECTION 16-411, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 44, SECTION 8; AMENDING SECTIONS 16-445, 16-446, 16-535, 16-602 AND 16-663, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-411, Arizona Revised Statutes, as amended by  
3 Laws 2006, chapter 44, section 8, is amended to read:

4 16-411. Designation of election precincts and polling places:  
5 electioneering

6 A. The board of supervisors of each county, on or before December 1 of  
7 each year preceding the year of a general election, by an order, shall  
8 establish a convenient number of election precincts in the county and define  
9 the boundaries of the precincts. Such election precinct boundaries shall be  
10 so established as included within election districts prescribed by law for  
11 elected officers of the state and its political subdivisions including  
12 community college district precincts, except those elected officers provided  
13 for in titles 30 and 48.

14 B. Not less than twenty days before a general or primary election, and  
15 at least ten days before a special election, the board shall designate one  
16 polling place within each precinct where the election shall be held. Upon a  
17 specific finding of the board, included in the order or resolution  
18 designating polling places pursuant to this subsection, that no suitable  
19 polling place is available within a precinct, a polling place for such  
20 precinct may be designated within an adjacent precinct. Adjacent precincts  
21 may be combined if boundaries so established are included in election  
22 districts prescribed by law for state elected officials and political  
23 subdivisions including community college districts but not including elected  
24 officials prescribed by titles 30 and 48. The officer in charge of elections  
25 may also split a precinct for administrative purposes. Any such polling  
26 places shall be listed in separate sections of the order or resolution.

27 C. If the board fails to designate the place for holding the election,  
28 or if it cannot be held at or about the place designated, the justice of the  
29 peace in the precinct, two days before the election, by an order, copies of  
30 which he shall immediately post in three public places in the precinct, shall  
31 designate the place within the precinct for holding the election. If there  
32 is no justice of the peace in the precinct, or if the justice of the peace  
33 fails to do so, the election board of the precinct shall designate and give  
34 notice of the place within the precinct of holding the election. For any  
35 election in which there are no candidates for elected office appearing on the  
36 ballot, the board may consolidate polling places and precinct boards and may  
37 consolidate the tabulation of results for that election if all of the  
38 following apply:

39 1. All affected voters are notified by mail of the change at least  
40 thirty-three days before the election.

41 2. Notice of the change in polling places includes notice of the new  
42 voting location, notice of the hours for voting on election day and notice of  
43 the telephone number to call for voter assistance.

44 3. All affected voters receive information on early voting that  
45 includes the application used to request an early voting ballot.

1 D. The board is not required to designate a polling place for special  
2 district mail ballot elections held pursuant to article 8.1 of this chapter,  
3 but the board may designate one or more sites for voters to deposit marked  
4 ballots until 7:00 p.m. on the day of the election.

5 E. Except as provided in subsection F of this section, a public school  
6 shall provide sufficient space for use as a polling place for any city,  
7 county or state election when requested by the officer in charge of  
8 elections.

9 F. The principal of the school may deny a request to provide space for  
10 use as a polling place for any city, county or state election if, within two  
11 weeks after a request has been made, he provides a written statement  
12 indicating a reason the election cannot be held in the school, including any  
13 of the following:

14 1. Space is not available at the school.

15 2. The safety or welfare of the children would be jeopardized.

16 G. The board shall make available to the public as a public record a  
17 list of the polling places for all precincts in which the election is to be  
18 held including identification of polling place changes that were submitted to  
19 the United States department of justice for approval.

20 H. Except in the case of an emergency, any facility that is used as a  
21 polling place on election day shall allow persons to electioneer and engage  
22 in other political activity outside of the seventy-five foot limit prescribed  
23 by section 16-515 in public areas and parking lots used by voters. This  
24 subsection shall not be construed to permit the temporary or permanent  
25 construction of structures in public areas and parking lots or the blocking  
26 or other impairment of access to parking spaces for voters.

27 I. THE SECRETARY OF STATE SHALL PROVIDE THROUGH THE INSTRUCTIONS AND  
28 PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452 THE MAXIMUM ALLOWABLE  
29 WAIT TIME FOR ANY ELECTION THAT IS SUBJECT TO SECTION 16-204 AND PROVIDE FOR  
30 A METHOD TO REDUCE VOTER WAIT TIME AT THE POLLS IN THE PRIMARY AND GENERAL  
31 ELECTIONS. THE METHOD SHALL CONSIDER AT LEAST ALL OF THE FOLLOWING FOR  
32 PRIMARY AND GENERAL ELECTIONS IN EACH PRECINCT:

33 1. THE NUMBER OF BALLOTS VOTED IN THE PRIOR PRIMARY AND GENERAL  
34 ELECTIONS.

35 2. THE NUMBER OF REGISTERED VOTERS WHO VOTED EARLY IN THE PRIOR  
36 PRIMARY AND GENERAL ELECTIONS.

37 3. THE NUMBER OF REGISTERED VOTERS AND THE NUMBER OF REGISTERED VOTERS  
38 WHO CAST AN EARLY BALLOT FOR THE CURRENT PRIMARY OR GENERAL ELECTION.

39 4. THE NUMBER OF ELECTION BOARD MEMBERS AND CLERKS AND THE NUMBER OF  
40 ROSTERS THAT WILL REDUCE VOTER WAIT TIME AT THE POLLS.

41 Sec. 2. Section 16-445, Arizona Revised Statutes, is amended to read:

42 16-445. Filing of computer election programs with secretary of  
43 state

44 A. For any state, county, school district, special district, city or  
45 town election, including primary elections, utilizing vote tabulating devices

1 as provided in this article, there shall be filed with the secretary of state  
2 at least ~~two weeks~~ TEN DAYS before the date of the election a copy of each  
3 computer program for each election. THE SECRETARY OF STATE SHALL HOLD ALL  
4 COMPUTER PROGRAM SOFTWARE FILED PURSUANT TO THIS SECTION IN ESCROW FOR THREE  
5 YEARS. THE SECRETARY OF STATE SHALL SECURELY DESTROY THE SOFTWARE FILED  
6 PURSUANT TO THIS SECTION ON THE EXPIRATION OF THE THREE YEAR PERIOD.

7 B. A copy of any subsequent revision of the computer program shall be  
8 filed in the same manner within forty-eight hours following the revision.

9 C. Any tape or disc used in the programming or operation of a vote  
10 tabulating device upon which votes are counted and any tape used in compiling  
11 vote totals shall be kept under lock and seal, and if there is a retally of  
12 votes, the officer entrusted with the tapes or discs shall submit his  
13 affidavit stating that they are the tapes or discs, or both, used in the  
14 election and have not been altered.

15 D. All materials submitted to the secretary of state shall be used by  
16 the secretary of state or attorney general to preclude fraud or any unlawful  
17 act under the laws of this title and title 19 and shall not be disclosed or  
18 used for any other purpose.

19 E. Each program tape or disc or any other material submitted to the  
20 secretary of state shall be returned to the county, city or town within six  
21 months after the close of the election for which it was submitted except:

- 22 1. When a court ordered recount is pending.
- 23 2. When a restraining order is in effect.
- 24 3. When any other legal action is pending.

25 Sec. 3. Section 16-446, Arizona Revised Statutes, is amended to read:  
26 16-446. Specifications of electronic voting system

27 A. An electronic voting system consisting of a voting or marking  
28 device in combination with vote tabulating equipment shall provide facilities  
29 for voting for candidates at both primary and general elections.

30 B. An electronic voting system shall:

- 31 1. Provide for voting in secrecy when used with voting booths.

32 2. Permit each elector to vote at any election for any person for any  
33 office whether or not nominated as a candidate, to vote for as many persons  
34 for an office as he is entitled to vote for, AND to vote for or against any  
35 question ~~upon~~ ON which he is entitled to vote, and the vote tabulating  
36 equipment shall reject choices recorded on his ballot card or paper ballot if  
37 the number of choices exceeds the number ~~which~~ THAT he is entitled to vote  
38 for the office or on the measure.

39 3. Prevent the elector from voting for the same person more than once  
40 for the same office.

41 4. Be suitably designed for the purpose used, AND BE of durable  
42 construction, and may be used safely, efficiently and accurately in the  
43 conduct of elections and counting ballots.

1           5. Be provided with means for sealing the voting or marking device  
2 against any further voting after the close of the polls and the last voter  
3 has voted.

4           6. When properly operated, record correctly and count accurately every  
5 vote cast.

6           7. Provide a DURABLE paper document ~~or ballot~~ that visually indicates  
7 the voter's selections, THAT THE VOTER MAY USE TO VERIFY THE VOTER'S CHOICES,  
8 THAT MAY BE SPOILED BY THE VOTER IF IT FAILS TO REFLECT THE VOTER'S CHOICES  
9 AND THAT PERMITS THE VOTER TO CAST A NEW BALLOT. THIS PAPER DOCUMENT SHALL  
10 BE USED IN MANUAL AUDITS AND RECOUNTS.

11           Sec. 4. Section 16-535, Arizona Revised Statutes, is amended to read:

12           16-535. Election marshal; appointment; powers and duties

13           A. The board of supervisors shall, at the time provided in section  
14 16-531, SHALL appoint a qualified voter of the precinct as election marshal.

15           B. The election marshal shall preserve order at the polls and permit  
16 no violation of the election laws and for that purpose is vested with powers  
17 of a constable from the opening of the polls until the count of the ballots  
18 is completed. THE ELECTION MARSHAL SHALL ALSO PERIODICALLY MEASURE THE  
19 LENGTH OF WAITING TIMES AT THAT POLLING PLACE THROUGHOUT THE DAY, AND IF THE  
20 WAITING TIME IS THIRTY MINUTES OR MORE, THE MARSHAL SHALL INFORM THE OFFICER  
21 IN CHARGE OF ELECTIONS AND SHALL REQUEST ADDITIONAL VOTING MACHINES, VOTING  
22 BOOTHS AND BOARD WORKERS, AS APPROPRIATE. The election marshal may perform  
23 the duties of any other election board member on a relief basis.

24           Sec. 5. Section 16-602, Arizona Revised Statutes, is amended to read:

25           16-602. Removal of ballots from ballot boxes; disposition of  
26 ballots folded together or excessive ballots;  
27 designated margin; hand counts; vote count  
28 verification committee

29           A. The ballots cast in the election shall first be removed from the  
30 ballot box and counted without being opened, except as may be necessary to  
31 ascertain that the number of ballots cast corresponds with the number of  
32 names on the poll lists.

33           B. If two or more ballots are found folded together appearing as a  
34 single ballot, they shall be laid aside until the count of the ballots is  
35 completed. If it then appears by comparison of the count with the number of  
36 names on the poll lists, that the ballots thus folded together were cast by  
37 one elector, they shall be destroyed. If the ballots in the box are still  
38 found to exceed in number the names on the poll lists, the ballots, except  
39 those destroyed, shall be replaced in the box, and one of the judges shall,  
40 without looking in the box, SHALL draw therefrom, one at a time, and destroy  
41 unopened, a number of ballots equal to the excess, and the election board  
42 shall record on the poll lists the number of ballots so destroyed and shall  
43 then sign the poll list.

1 C. FOR EACH COUNTYWIDE PRIMARY, GENERAL AND PRESIDENTIAL PREFERENCE  
2 ELECTION, THE COUNTY OFFICER IN CHARGE OF THE ELECTION SHALL CONDUCT A HAND  
3 COUNT AT THE CENTRAL COUNTING CENTER OF AT LEAST TWO PER CENT OF THE  
4 PRECINCTS IN THAT COUNTY, OR TWO PRECINCTS, WHICHEVER IS GREATER. THE COUNTY  
5 POLITICAL PARTY CHAIRMAN FOR EACH POLITICAL PARTY THAT IS ENTITLED TO  
6 CONTINUED REPRESENTATION ON THE STATE BALLOT OR THE CHAIRMAN'S DESIGNEE SHALL  
7 CONDUCT THE SELECTION OF THE PRECINCTS TO BE HAND COUNTED. THE PRECINCTS  
8 SHALL BE SELECTED BY LOT WITHOUT THE USE OF A COMPUTER, AND THE ORDER OF  
9 SELECTION BY THE COUNTY POLITICAL PARTY CHAIRMEN SHALL ALSO BE BY LOT. THE  
10 SELECTION OF THE PRECINCTS SHALL NOT BEGIN UNTIL ALL BALLOTS VOTED IN THE  
11 PRECINCT POLLING PLACES HAVE BEEN DELIVERED TO THE CENTRAL COUNTING CENTER.  
12 THE UNOFFICIAL VOTE TOTALS FROM ALL PRECINCTS SHALL BE MADE PUBLIC BEFORE  
13 SELECTING THE PRECINCTS TO BE HAND COUNTED. ONLY THE BALLOTS CAST IN THE  
14 POLLING PLACES AND BALLOTS FROM DIRECT RECORDING ELECTRONIC MACHINES SHALL BE  
15 INCLUDED IN THE HAND COUNTS CONDUCTED PURSUANT TO THIS SECTION. PROVISIONAL  
16 BALLOTS, CONDITIONAL PROVISIONAL BALLOTS AND WRITE-IN VOTES SHALL NOT BE  
17 INCLUDED IN THE HAND COUNTS AND THE EARLY BALLOTS SHALL BE GROUPED SEPARATELY  
18 BY THE OFFICER IN CHARGE OF ELECTIONS FOR PURPOSES OF A SEPARATE MANUAL AUDIT  
19 PURSUANT TO SUBSECTION G. THE RACES TO BE COUNTED SHALL INCLUDE AT LEAST  
20 FOUR CONTESTED RACES, AND SHALL INCLUDE ONE FEDERAL RACE, ONE STATEWIDE  
21 CANDIDATE RACE, ONE BALLOT MEASURE AND ONE LEGISLATIVE RACE ON THOSE BALLOTS.  
22 FOR THE PURPOSES OF THIS SECTION, A WRITE-IN CANDIDACY IN A RACE DOES NOT  
23 CONSTITUTE A CONTESTED RACE. IN ELECTIONS IN WHICH THERE ARE CANDIDATES FOR  
24 PRESIDENT, THE PRESIDENTIAL RACE SHALL BE ADDED TO THE FOUR CATEGORIES OF  
25 HAND COUNTED RACES. EACH COUNTY CHAIRMAN OF A POLITICAL PARTY THAT IS  
26 ENTITLED TO CONTINUED REPRESENTATION ON THE STATE BALLOT OR THE CHAIRMAN'S  
27 DESIGNEE SHALL SELECT BY LOT THE INDIVIDUAL RACES TO BE HAND COUNTED. THE  
28 COUNTY CHAIRMAN OF EACH POLITICAL PARTY SHALL DESIGNATE AND PROVIDE THE  
29 NUMBER OF ELECTION BOARD MEMBERS AS DESIGNATED BY THE COUNTY OFFICER IN  
30 CHARGE OF ELECTIONS WHO SHALL PERFORM THE HAND COUNT UNDER THE SUPERVISION OF  
31 THE COUNTY OFFICER IN CHARGE OF ELECTIONS. FOR EACH PRECINCT THAT IS TO BE  
32 AUDITED, THE COUNTY CHAIRMEN SHALL DESIGNATE AT LEAST THREE BOARD WORKERS WHO  
33 ARE REGISTERED MEMBERS OF ANY OR NO POLITICAL PARTY, AND THE COUNTY ELECTION  
34 OFFICER SHALL PROVIDE FOR COMPENSATION FOR THOSE BOARD WORKERS. IF THE BOARD  
35 WORKERS SELECTED BY THE COUNTY CHAIRMEN FAIL TO APPEAR AND PERFORM THE HAND  
36 COUNT PURSUANT TO THIS SUBSECTION, NO HAND COUNT WILL BE CONDUCTED AND THE  
37 ELECTRONIC TABULATION IS DEEMED THE OFFICIAL COUNT.

38 D. IF THE RANDOMLY SELECTED RACES RESULT IN A DIFFERENCE IN ANY RACE  
39 THAT IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC  
40 TABULATION OF THOSE SAME BALLOTS, THE RESULTS OF THE ELECTRONIC TABULATION  
41 CONSTITUTE THE OFFICIAL COUNT FOR THAT RACE. IF THE RANDOMLY SELECTED RACES  
42 RESULT IN A DIFFERENCE IN ANY RACE THAT IS EQUAL TO OR GREATER THAN THE  
43 DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION OF THOSE SAME  
44 BALLOTS, A SECOND HAND COUNT OF THOSE SAME BALLOTS AND RACES SHALL BE  
45 PERFORMED. IF THE SECOND HAND COUNT RESULTS IN A DIFFERENCE IN ANY RACE THAT

1 IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION  
2 FOR THOSE SAME BALLOTS, ELECTRONIC TABULATION CONSTITUTES THE OFFICIAL COUNT  
3 FOR THAT RACE. IF THE SECOND HAND COUNT RESULTS IN A DIFFERENCE IN ANY RACE  
4 THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE  
5 ELECTRONIC TABULATION FOR THOSE SAME BALLOTS, THE HAND COUNT SHALL BE  
6 EXPANDED TO INCLUDE A TOTAL OF TWICE THE ORIGINAL NUMBER OF RANDOMLY SELECTED  
7 PRECINCTS. THOSE ADDITIONAL PRECINCTS SHALL BE SELECTED BY LOT WITHOUT THE  
8 USE OF A COMPUTER.

9 E. IN ANY EXPANDED COUNT OF RANDOMLY SELECTED PRECINCTS, IF THE  
10 RANDOMLY SELECTED PRECINCT HAND COUNTS RESULT IN A DIFFERENCE IN ANY RACE  
11 THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE  
12 ELECTRONIC TABULATION OF THOSE SAME BALLOTS, THE FINAL HAND COUNT SHALL BE  
13 EXTENDED TO INCLUDE THE ENTIRE JURISDICTION FOR THAT RACE. IF THE  
14 JURISDICTIONAL BOUNDARY FOR THAT RACE WOULD INCLUDE ANY PORTION OF MORE THAN  
15 ONE COUNTY, THE FINAL HAND COUNT SHALL NOT BE EXTENDED INTO THE PRECINCTS OF  
16 THAT RACE THAT ARE OUTSIDE OF THE COUNTY THAT IS CONDUCTING THE EXPANDED HAND  
17 COUNT. IF THE EXPANDED HAND COUNT RESULTS IN A DIFFERENCE IN THAT RACE THAT  
18 IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION  
19 OF THOSE SAME BALLOTS, THE ELECTRONIC TABULATION CONSTITUTES THE OFFICIAL  
20 COUNT FOR THAT RACE.

21 F. IF A FINAL HAND COUNT IS PERFORMED FOR AN ENTIRE JURISDICTION FOR A  
22 RACE, THE FINAL HAND COUNT SHALL BE REPEATED FOR THAT RACE UNTIL A HAND COUNT  
23 FOR THAT RACE FOR THE ENTIRE JURISDICTION RESULTS IN A COUNT THAT IS  
24 IDENTICAL TO ONE OTHER HAND COUNT FOR THAT RACE FOR THE ENTIRE JURISDICTION  
25 AND THAT HAND COUNT CONSTITUTES THE OFFICIAL COUNT FOR THAT RACE.

26 G. AFTER THE ELECTRONIC TABULATION OF EARLY BALLOTS AND AT ONE OR MORE  
27 TIMES SELECTED BY THE CHAIRMAN OF THE POLITICAL PARTIES ENTITLED TO CONTINUED  
28 REPRESENTATION ON THE BALLOT OR THE CHAIRMAN'S DESIGNEE, THE COUNTY OFFICER  
29 IN CHARGE OF ELECTIONS SHALL RANDOMLY SELECT ONE OR MORE BATCHES OF EARLY  
30 BALLOTS THAT HAVE BEEN TABULATED TO INCLUDE AT LEAST ONE BATCH FROM EACH  
31 MACHINE USED FOR TABULATING EARLY BALLOTS AND SHALL SECURELY SEQUESTER THOSE  
32 BALLOTS ALONG WITH THEIR UNOFFICIAL TALLY REPORTS FOR A POSTELECTION MANUAL  
33 AUDIT. THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL RANDOMLY SELECT FROM  
34 THOSE SEQUESTERED EARLY BALLOTS A NUMBER EQUAL TO ONE PER CENT OF THE TOTAL  
35 NUMBER OF EARLY BALLOTS CAST OR FIVE THOUSAND EARLY BALLOTS, WHICHEVER IS  
36 LESS. FROM THOSE RANDOMLY SELECTED EARLY BALLOTS, THE COUNTY OFFICER IN  
37 CHARGE OF ELECTIONS SHALL CONDUCT A MANUAL AUDIT OF THE SAME RACES THAT ARE  
38 BEING HAND COUNTED PURSUANT TO SUBSECTION C. IF THE MANUAL AUDIT OF THE  
39 EARLY BALLOTS RESULTS IN A DIFFERENCE IN ANY RACE THAT IS EQUAL TO OR GREATER  
40 THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONICALLY TABULATED  
41 RESULTS FOR THOSE SAME EARLY BALLOTS, THE MANUAL AUDIT SHALL BE REPEATED FOR  
42 THOSE SAME EARLY BALLOTS. IF THE SECOND MANUAL AUDIT RESULTS IN A DIFFERENCE  
43 IN THAT RACE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN  
44 COMPARED TO THE ELECTRONICALLY TABULATED RESULTS FOR THOSE SAME EARLY  
45 BALLOTS, THE MANUAL AUDIT SHALL BE EXPANDED ONLY FOR THAT RACE TO A NUMBER OF

1 ADDITIONAL EARLY BALLOTS EQUAL TO ONE PER CENT OF THE TOTAL EARLY BALLOTS  
2 CAST OR AN ADDITIONAL FIVE THOUSAND BALLOTS, WHICHEVER IS LESS, TO BE  
3 RANDOMLY SELECTED FROM THE BATCH OR BATCHES OF SEQUESTERED EARLY BALLOTS. IF  
4 THE EXPANDED EARLY BALLOT MANUAL AUDIT RESULTS IN A DIFFERENCE FOR THAT RACE  
5 THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO ANY  
6 OF THE EARLIER MANUAL COUNTS FOR THAT RACE, THE MANUAL COUNTS SHALL BE  
7 REPEATED FOR THAT RACE UNTIL A MANUAL COUNT RESULTS IN A DIFFERENCE IN THAT  
8 RACE THAT IS LESS THAN THE DESIGNATED MARGIN. IF AT ANY POINT IN THE MANUAL  
9 AUDIT OF EARLY BALLOTS THE DIFFERENCE BETWEEN ANY MANUAL COUNT OF EARLY  
10 BALLOTS IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC  
11 TABULATION OF THOSE BALLOTS, THE ELECTRONIC TABULATION SHALL BE INCLUDED IN  
12 THE CANVASS AND NO FURTHER MANUAL AUDIT OF THE EARLY BALLOTS SHALL BE  
13 CONDUCTED.

14 H. DURING ANY HAND COUNT OF EARLY BALLOTS, THE COUNTY OFFICER IN  
15 CHARGE OF ELECTIONS AND ELECTION BOARD WORKERS SHALL ATTEMPT TO DETERMINE THE  
16 INTENT OF THE VOTER IN CASTING THE BALLOT.

17 I. NOTWITHSTANDING ANY OTHER LAW, THE COUNTY OFFICER IN CHARGE OF  
18 ELECTIONS SHALL RETAIN CUSTODY OF THE BALLOTS FOR PURPOSES OF PERFORMING ANY  
19 REQUIRED HAND COUNTS AND THE OFFICER SHALL PROVIDE FOR SECURITY FOR THOSE  
20 BALLOTS.

21 J. THE HAND COUNTS PRESCRIBED BY THIS SECTION SHALL BEGIN WITHIN  
22 TWENTY-FOUR HOURS AFTER THE CLOSING OF THE POLLS AND SHALL BE COMPLETED  
23 BEFORE THE CANVASSING OF THE ELECTION FOR THAT COUNTY. THE RESULTS OF THOSE  
24 HAND COUNTS SHALL BE PROVIDED TO THE SECRETARY OF STATE, WHO SHALL MAKE THOSE  
25 RESULTS PUBLICLY AVAILABLE ON THE SECRETARY OF STATE'S WEB SITE.

26 K. FOR ANY COUNTY IN WHICH A HAND COUNT HAS BEEN EXPANDED TO ALL  
27 PRECINCTS IN THE JURISDICTION, THE SECRETARY OF STATE SHALL MAKE AVAILABLE  
28 THE ESCROWED SOURCE CODE FOR THAT COUNTY TO THE SUPERIOR COURT. THE SUPERIOR  
29 COURT SHALL APPOINT A SPECIAL MASTER TO REVIEW THE COMPUTER SOFTWARE. THE  
30 SPECIAL MASTER SHALL HAVE EXPERTISE IN SOFTWARE ENGINEERING AND SHALL NOT BE  
31 AFFILIATED WITH AN ELECTION SOFTWARE VENDOR NOR WITH A CANDIDATE AND SHALL  
32 SIGN AND BE BOUND BY A NONDISCLOSURE AGREEMENT REGARDING THE SOURCE CODE  
33 ITSELF, AND SHALL ISSUE A PUBLIC REPORT TO THE COURT AND TO THE SECRETARY OF  
34 STATE REGARDING THE SPECIAL MASTER'S FINDINGS ON THE REASONS FOR THE  
35 DISCREPANCIES. THE SECRETARY OF STATE SHALL CONSIDER THE REPORTS FOR  
36 PURPOSES OF REVIEWING THE CERTIFICATION OF THAT EQUIPMENT AND SOFTWARE FOR  
37 USE IN THIS STATE.

38 L. THE VOTE COUNT VERIFICATION COMMITTEE IS ESTABLISHED IN THE OFFICE  
39 OF THE SECRETARY OF STATE AND ALL OF THE FOLLOWING APPLY:

40 1. AT LEAST THIRTY DAYS BEFORE THE 2006 PRIMARY ELECTION, THE  
41 SECRETARY OF STATE SHALL APPOINT SEVEN PERSONS TO THE COMMITTEE, NO MORE THAN  
42 THREE OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY.

43 2. MEMBERS OF THE COMMITTEE SHALL HAVE EXPERTISE IN ANY TWO OR MORE OF  
44 THE AREAS OF ADVANCED MATHEMATICS, STATISTICS, RANDOM SELECTION METHODS,  
45 SYSTEMS OPERATIONS OR VOTING SYSTEMS.



1           3. A PERSON IS NOT ELIGIBLE TO BE A COMMITTEE MEMBER IF THAT PERSON  
2 HAS BEEN AFFILIATED WITH OR RECEIVED ANY INCOME IN THE PRECEDING FIVE YEARS  
3 FROM ANY PERSON OR ENTITY THAT PROVIDES ELECTION EQUIPMENT OR SERVICES IN  
4 THIS STATE.

5           4. THE VOTE COUNT VERIFICATION COMMITTEE SHALL MEET AND ESTABLISH ONE  
6 OR MORE DESIGNATED MARGINS TO BE USED IN REVIEWING THE HAND COUNTING OF VOTES  
7 AS REQUIRED PURSUANT TO THIS SECTION. THE COMMITTEE SHALL REVIEW AND  
8 CONSIDER REVISING THE DESIGNATED MARGINS EVERY TWO YEARS FOR USE IN THE  
9 APPLICABLE ELECTIONS. THE COMMITTEE SHALL PROVIDE THE DESIGNATED MARGINS TO  
10 THE SECRETARY OF STATE AT LEAST TEN DAYS BEFORE THE PRIMARY ELECTION AND AT  
11 LEAST TEN DAYS BEFORE THE GENERAL ELECTION, AND THE SECRETARY OF STATE SHALL  
12 MAKE THAT INFORMATION PUBLICLY AVAILABLE ON THE SECRETARY OF STATE'S WEB  
13 SITE.

14           5. MEMBERS OF THE VOTE COUNT VERIFICATION COMMITTEE ARE NOT ELIGIBLE  
15 TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES  
16 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2. THE COMMITTEE IS A PUBLIC BODY  
17 AND ITS MEETINGS ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1 AND ITS  
18 REPORTS AND RECORDS ARE SUBJECT TO TITLE 39, CHAPTER 1.

19           Sec. 6. Section 16-663, Arizona Revised Statutes, is amended to read:

20           16-663. Recount of votes; method

21           A. The superior court to which the facts requiring a recount are  
22 certified shall forthwith make and enter an order requiring a recount of the  
23 votes cast for such office, measure or proposal. The recount shall be  
24 conducted in accordance with the laws pertaining to contests of elections.

25           B. When the court orders a recount of votes which were cast and  
26 tabulated on electronic voting equipment, such recount shall be pursuant to  
27 section 16-664. ON COMPLETION OF THE RECOUNT, AND FOR LEGISLATIVE, STATEWIDE  
28 AND FEDERAL CANDIDATE RACES ONLY, THE COUNTY CHAIRMEN OF THE POLITICAL  
29 PARTIES ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT OR THE CHAIRMAN'S  
30 DESIGNEE SHALL SELECT AT RANDOM WITHOUT THE USE OF A COMPUTER FIVE PER CENT  
31 OF THE PRECINCTS FOR THE RECOUNTED RACE FOR A HAND COUNT, AND IF THE RESULTS  
32 OF THAT HAND COUNT WHEN COMPARED TO THE ELECTRONIC TABULATION OF THAT SAME  
33 RACE ARE LESS THAN THE DESIGNATED MARGINS CALCULATED PURSUANT TO SECTION  
34 16-602, THE RECOUNT IS COMPLETE AND THE ELECTRONIC TABULATION IS THE OFFICIAL  
35 RESULT. IF THE HAND COUNT RESULTS IN A DIFFERENCE THAT IS EQUAL TO OR  
36 GREATER THAN THE DESIGNATED MARGIN FOR THAT RACE, THE PROCEDURE ESTABLISHED  
37 IN SECTION 16-602, SUBSECTIONS D, E, F AND G APPLIES.

38           Sec. 7. Emergency

39           This act is an emergency measure that is necessary to preserve the  
40 public peace, health or safety and is operative immediately as provided by  
41 law.

APPROVED BY THE GOVERNOR JUNE 28, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 28, 2006.